



Review Sheet



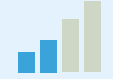
Last Reviewed
24 Oct 2024



Last Amended
24 Oct 2024



This policy will be reviewed as needs require or at the following interval:
2 years

Business Impact:	 <p>MEDIUM</p> <p>Changes are important, but urgent implementation is not required, incorporate into your existing workflow.</p>
Reason for this Review:	Scheduled review
Changes Made:	Yes
Summary:	This policy has been updated to include the new preventative duty in respect of sexual harassment, with specific reference to the new Sexual Harassment Policy and Procedure.
Relevant Legislation:	<ul style="list-style-type: none"> • Equality Act 2010 • Equality Act 2010: Chapter 1 (Protected Characteristics) Chapter 2 (Prohibited Conduct) and Chapter 3 (Services and Public Functions) • Health and Safety at Work etc. Act 1974 • Data Protection Act 2018 • UK GDPR • The Worker Protection (Amendment of Equality Act 2010) Act 2023 • Article 8 Human Rights Act 1998: Respect for private and family life, home and correspondence. • The Protection from Harassment Act 1997
Underpinning Knowledge:	<ul style="list-style-type: none"> • Author: Government, (2010), Equality Act 2010 [Online] Available from: https://www.legislation.gov.uk/ukpga/2010/15/contents [Accessed: 24/10/2024] • Author: Government, (1997), Protection from Harassment Act 1997 [Online] Available from: https://www.legislation.gov.uk/ukpga/1997/40/contents [Accessed: 24/10/2024] • Author: Government, (1997), Health and Safety at Work etc. Act 1974 [Online] Available from: https://www.legislation.gov.uk/ukpga/1974/37 [Accessed: 24/10/2024] • Author: Health and Safety Executive, (2023), HSE Guidance [Online] Available from: https://www.hse.gov.uk/healthservices/violence/further-guidance.htm [Accessed: 24/10/2024] • Author: Government, (1998), Human Rights Act 1998 [Online] Available from: https://www.legislation.gov.uk/ukpga/1998/42/contents [Accessed: 24/10/2024]



	<ul style="list-style-type: none">• Author: Equality and Human Rights Commission, (2021), Article 8: Respect for your private and family life [Online] Available from: https://www.equalityhumanrights.com/human-rights/human-rights-act/article-8-respect-your-private-and-family-life#:~:text=England-,Article%20%20protects%20your%20right%20to%20respect%20for%20your%20private, and%20emails%2C%20f or%20example). [Accessed: 24/10/2024]• Author: Government, (2023), Worker Protection (Amendment of Equality Act 2010) Act 2023 [Online] Available from: https://www.legislation.gov.uk/ukpga/2023/51/contents [Accessed: 24/10/2024]
Suggested Action:	<ul style="list-style-type: none">• Encourage sharing the policy through the use of the QCS App
Equality Impact Assessment:	<p>QCS have undertaken an equality analysis during the review of this policy. This statement is a written record that demonstrates that we have shown due regard to the need to eliminate unlawful discrimination, advance equality of opportunity and foster good relations with respect to the characteristics protected by equality law.</p>

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1. Purpose

1.1 To encourage a working environment in which bullying and harassment are always unacceptable, and where individuals have the confidence to complain about bullying and harassment should it arise, in the knowledge that their concerns will be dealt with appropriately and fairly.

1.2 To ensure that all members of staff are treated with dignity and respect regardless of whether they have a protected characteristic under the Equality Act 2010.

1.3

Key Question	Quality Statements
SAFE	QSS3: Safeguarding
SAFE	QSS1: Learning culture
WELL-LED	QSW1: Shared direction and culture QSW2: Capable, compassionate and inclusive leaders
WELL-LED	QSW5: Governance, management and sustainability

1.4 Relevant Legislation

- Equality Act 2010
- Equality Act 2010: Chapter 1 (Protected Characteristics) Chapter 2 (Prohibited Conduct) and Chapter 3 (Services and Public Functions)
- Health and Safety at Work etc. Act 1974
- Data Protection Act 2018
- UK GDPR
- The Worker Protection (Amendment of Equality Act 2010) Act 2023
- Article 8 Human Rights Act 1998: Respect for private and family life, home and correspondence.
- The Protection from Harassment Act 1997



2. Scope

2.1 Roles Affected:

- All Staff

2.2 People Affected:

- Service Users

2.3 Stakeholders Affected:

- Commissioners



3. Objectives

3.1 To ensure that staff are aware of the reporting procedure if they have been subjected to bullying and/or harassment.

3.2 To ensure that all staff understand what action will amount to bullying and/or harassment of another.

3.3 To enforce the commitment of Wellspring Recruitment and Care Services Limited to stamping out any acts of bullying and harassment between members of staff.

3.4 To create an open and inclusive atmosphere in which all members of staff can thrive and feel supported.

3.5 To recognise that bullying and harassment in the workplace does not necessarily just occur between employees, but can also involve Service Users; and that knowledge of signs and indications is also relevant for the purposes of safeguarding and regulatory concerns.

3.6 To prevent sexual harassment within the workplace.



4. Policy

4.1 Wellspring Recruitment and Care Services Limited disapproves of all forms of harassment, including sexual or racial harassment and harassment based on disability, age, gender, gender reassignment, religion or belief, pregnancy or maternity, marital or civil partner status and sexuality, and seeks to ensure that the working environment is conducive to all its employees.

4.2 From 26 October 2024, the law will also protect employees, workers, contractors, self-employed staff and job applicants from sexual harassment in the workplace and Wellspring Recruitment and Care Services Limited will have a duty to take reasonable steps to prevent sexual harassment of their staff.

Examples of sexual harassment include:

- Flirting, gesturing, or making sexual remarks about someone's body, clothing or appearance
- Asking questions about someone's sex life
- Telling sexually offence jokes; and/or
- Displaying or sharing pornographic or sexual images

Wellspring Recruitment and Care Services Limited is committed to maintaining a workplace that is free from sexual harassment and may implement the following steps (note, this list is non-exhaustive):

- Regular training to educate employees on recognising and preventing sexual harassment
- Adhering to policies relating to sexual harassment; and
- Training managers to address and prevent sexual harassment

Please see the Sexual Harassment Policy and Procedure for further information on the approach of Wellspring Recruitment and Care Services Limited to preventing sexual harassment.

4.3 The following procedure informs employees of the type of behaviour that is unacceptable and provides employees who are the victims of any form of harassment with



a means of redress.

4.4 Implementation of the policy is the duty of all staff, particularly managers and supervisors. All employees must comply with this policy (Wellspring Recruitment and Care Services Limited encourages and welcomes the support of the recognised trade union(s) in seeking to eradicate harassment of all forms from the workplace). Any breach of this policy may be considered gross misconduct and the individual concerned may be dismissed without notice.

4.5 Under the Equality Act 2010, harassment is unwanted conduct related to a relevant protected characteristic, which has the purpose or effect of violating an individual's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for that individual.

4.6 The Protection from Harassment Act 1997 also makes it unlawful to pursue a course of conduct which you know or ought to know would be harassment, which includes causing someone alarm or distress.

4.7 Under the Health and Safety at Work Act 1974 staff are entitled to a safe place and system of work. Individual members of staff may in some cases be legally liable for harassment of colleagues or third parties, and may be ordered to pay compensation by a court or employment tribunal.

4.8 The relevant protected characteristics are:

- Race, including colour, nationality, ethnic or national origin
- Sex
- Disability
- Age
- Religion or belief
- Sexual orientation
- Gender reassignment
- Marital or civil partner status
- Pregnancy or maternity

4.9 This policy does not form part of an employee's contract of employment and may be amended at any time.

4.10 Any data processed by Wellspring Recruitment and Care Services Limited, which includes any protected characteristics, will be processed in accordance with Data Protection legislation.

4.11 Under Article 8 of the Human Rights Act 1998 individuals have the right to respect for private and family life. A right to private life includes, for example, the right to determine sexuality or sexual orientation. It therefore follows that harassment under the Equality Act 2010 at the workplace for these would also give an argument for breach of the Human Rights Act 1998.

The Human Rights Act 1998 only technically covers public bodies directly. Private institutions carrying out public services or receiving funding from public bodies could also be caught directly by the effect of the Human Rights Act 1998. In any event, Wellspring Recruitment and Care Services Limited will also take into account the purpose and impact of the Human Rights Act 1998.



5. Procedure



5.1 Initially, it may be possible for an employee to raise an issue informally with the person responsible for the unwanted behaviour. Sometimes that person may be unaware that their behaviour is causing offence (i.e. rude jokes, "banter" etc.) and may genuinely be upset to learn they have done so. Where the employee is able to do so, they should explain to the person that their behaviour is not welcomed and makes them uncomfortable and ask that they avoid such behaviour in the future. The employee should make a note of any conversation they have with the person involved.

5.2 The relevant process to follow, should an aggrieved employee wish to raise a formal complaint, is the Grievance Policy and Procedure and all useful documents are contained in that policy. However, for clarity, the process is reproduced below.

If an employee is unable to deal with this issue informally, they can raise a formal complaint in writing with their line manager. The complaint should set out the full details of the unwanted conduct and include dates, times, locations, and the names of any witnesses to the unacceptable behaviour.

5.3 Wellspring Recruitment and Care Services Limited will treat all complaints made with the strictest confidence and will look to investigate the issue in a prompt and timely manner.

5.4 Wellspring Recruitment and Care Services Limited will undertake an investigation into the allegations and all investigations will be thorough, impartial and objective. Wellspring Recruitment and Care Services Limited will appoint an investigating officer to investigate and hear the complaint. The investigating officer will be independent of any discussions about the complaint to avoid them having already formed a view before the investigation is carried out.

In order to discuss the outcome of the investigation, the investigating officer will invite the employee to a meeting within 7 days of receiving their complaint. The employee has the right to be accompanied to this meeting by either a fellow colleague or a Trade Union Representative.

Where the complaint relates to a fellow colleague, Wellspring Recruitment and Care Services Limited will consider whether suspension on full pay or alterations to the colleague's working arrangements is necessary pending the outcome of the investigation.

At the conclusion of the investigation, the investigating officer will decide what action is necessary, if any, and will provide an outcome in writing to the employee.

5.5 Where the investigating officer considers that an offence has occurred, prompt action will be taken to resolve the issue.

Where the harasser or bully is a fellow employee, Wellspring Recruitment and Care Services Limited will look to deal with the potential misconduct or gross misconduct offence under the Discipline Policy and Procedure. However, the outcome of the disciplinary process is a matter for Wellspring Recruitment and Care Services Limited to determine. The employee who raised the complaint cannot dictate what action is to be taken.

Wellspring Recruitment and Care Services Limited may explore, in certain cases, the feasibility of mediation between the harasser and the aggrieved. This may be accompanied by additional training for the harasser, either internally or externally. All staff are encouraged to consider engaging in mediation where it is offered as a solution, although Wellspring Recruitment and Care Services Limited recognises that mediation will not always be appropriate.

Where the unwanted behaviour has stemmed from a third party, Wellspring Recruitment and Care Services Limited will look to clarify the behaviour expected of their



representatives or in very serious cases, ban them from our premises and/or terminate the contract with them.

Where the unwanted behaviour has stemmed from a Service User, the member of staff should inform their line manager as soon as possible who will then take steps to investigate this matter and take any appropriate action to resolve this issue.

Please note that any employee who deliberately provides false information, or acts in bad faith as part of the investigation process, will be subject to action under the Discipline Policy and Procedure.

5.6 If the aggrieved employee is unhappy with the outcome of the investigation, they may appeal in writing to a senior manager or director within 7 days of the outcome letter being provided. The details of the relevant senior manager or director will be outlined in the investigation outcome letter and they will act as appeal officer and will be an impartial manager who has not previously been involved with the investigation. In submitting the appeal, the aggrieved employee should state the full grounds upon which their appeal is based.

The appeal officer will schedule an appeal meeting with the aggrieved employee within 7 days of receiving the appeal letter.

Again, the aggrieved employee will be entitled to be accompanied to this meeting by a fellow employee or a Trade Union Representative.

Following this meeting, the appeal officer will confirm their decision to the aggrieved employee in writing within 7 days of the appeal hearing after which there will be no further right of appeal.

5.7 Where a member of staff feels that they have suffered sexual harassment, they should raise their complaint howsoever they feel comfortable in doing so. There are multiple channels available, for example your line manager, another manager, HR or to a director. This is so that you are not required to report an incident to the perpetrator or to someone who you may feel may not be objective.

Wellspring Recruitment and Care Services Limited will treat any complaints made with the strictest confidence, ensuring sensitivity. There is no time limit on making complaints under this policy.

5.8 If a member of staff witnesses harassment, they should:

- **Intervene safely** - Consider whether it is safe and appropriate to step in to stop the harassment, whilst ensuring their own safety in doing so
- **Support the victim** - Encourage the victim to make a formal complaint. Where possible, offer emotional support
- **Report what they have seen** - Take note of important details such as names of those involved, dates and times. This may be valuable evidence if an investigation is required and they may be required to give evidence
- **Make their own complaint** - If they feel that the harassment that they have witnessed has affected them, please make a sexual harassment complaint

If a sexual harassment complaint is made to a member of staff, they should:

- Take the complaint seriously
- Investigate promptly
- Act fairly and sensitively; and
- Communicate with transparency



6. Definitions

6.1 Bullying/Harassment

- Under the Equality Act 2010, where (A) engages in unwanted conduct related to a protected characteristic (or of a sexual nature) that has the purpose or effect of violating (B)'s dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for (B). Whether the conduct has that effect is judged subjectively from (B)'s viewpoint, subject to a test of reasonableness

6.2 Protected Characteristic

- The Equality Act 2010 is concerned with discrimination and harassment in respect of nine protected characteristics: age; disability; gender reassignment; marriage and civil partnership; pregnancy and maternity; race; religion or belief; sex; and sexual orientation

6.3 Direct Discrimination

- Where, because of a protected characteristic, a person (A) treats another (B) less favourably than (A) treats or would treat others

6.4 Indirect Discrimination

- Where (A) applies to (B) an apparently neutral provision, criterion or practice that (A) would apply equally to others, but which puts or would put those who share (B)'s protected characteristic at a particular disadvantage. There will be no discrimination if the provision, criterion or practice is objectively justified

6.5 Harassment and Violence

- The European agreement recognises that harassment and violence can:
 - Be physical, psychological, and/or sexual
 - Be one-off incidents or more systematic patterns of behaviour
 - Be amongst colleagues, between superiors and subordinates or by third parties such as clients, customers, patients, pupils, etc.
 - Range from minor cases of disrespect to more serious acts (including criminal offences) which require the intervention of public authorities

6.6 Aggrieved Employee

- The employee who believes that they have been subjected to bullying and/or harassment and raises a complaint about this conduct either informally or formally in accordance with this policy

6.7 Sexual Harassment

- Sexual harassment is any unwelcome conduct, advances, requests for sexual favours, or other verbal or physical conduct of a sexual nature that interferes with an individual's performance or creates an intimidating, hostile, or offensive work environment
- Examples include unwanted comments, gestures, inappropriate jokes or any form of unwanted sexual attention



7. Key Facts - Professionals

Professionals providing this service should be aware of the following:



- From the 26 October 2024, employers will have a duty to take reasonable steps to prevent sexual harassment within the workplace
- Bullying and harassment is a serious issue and any complaints must be dealt with in a timely manner
- Harassment occurs when there is any unwanted physical, verbal or non-verbal conduct which has the purpose or effect of violating a person's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for them. There only needs to be a single incident
- Bullying is categorised as offensive, intimidating, malicious or insulting behaviour involving the misuse of power that can leave an employee feeling vulnerable, upset, humiliated, undermined or threatened



8. Key Facts - People Affected by The Service

People affected by this service should be aware of the following:

- Wellspring Recruitment and Care Services Limited takes all allegations of bullying and/or harassment seriously and will not hesitate to take disciplinary action against anyone proven to be guilty of either or both
- Employees who are subjected to bullying and/or harassment should report this to a manager formally in writing if they are unable to resolve the issue informally
- Employees can be assured that any complaint that they make will be treated in strictest confidence and will be investigated in a prompt and timely manner



Further Reading

ACAS Advice Leaflet - Sexual Harassment:

<https://www.acas.org.uk/sexual-harassment>

ACAS - Handling Bullying and Discrimination - Approaching a Complaint:

<https://www.acas.org.uk/media/304/Advice-leaflet---Bullying-and-harassment-at-work-a-guide-for-managers-and-employers/pdf/Bullying-and-harassment-in-the-workplace-a-guide-for-managers-and-employers.pdf>

ACAS - Discrimination and Bullying - Advice for employees and employers on dealing with discrimination and bullying:

<https://www.acas.org.uk/media/306/Advice-leaflet---Bullying-and-harassment-at-work-a-guide-for-employees/pdf/Bullying-and-harassment-at-work-a-guide-for-employees.pdf>

Government Guidance - Workplace bullying and harassment:

<https://www.gov.uk/workplace-bullying-and-harassment>

Citizens Advice - If you're being harassed or bullied at work:



<https://www.citizensadvice.org.uk/work/discrimination-at-work/checking-if-its-discrimination/if-youre-being-harassed-or-bullied-at-work/>

National Bullying Helpline:

<https://www.nationalbullyinghelpline.co.uk/>

People Management - The Worker Protection Act: A new duty on employers:

<https://www.peoplemanagement.co.uk/article/1849199/worker-protection-act-new-duty-employers>

Grievances Policy and Procedure

Discipline Policy and Procedure



Outstanding Practice

To be "outstanding" in this policy area you could provide evidence that:

- The wide understanding of the policy is enabled by proactive use of the QCS App
- Create an environment which avoids conflicts between employees which may develop into issues of bullying and harassment
- Engage with employees so that they are aware of policies on bullying and harassment and the tough stance that is taken on it
- Ensure regular open dialogue with employees so that they are able to report any concerns without fear of reprisals, bullying or harassment

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